

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE
PATENTING REJECTION OVER A PRIOR PATENT**

Docket No. (Optional)
BMC530/4-008CON2US

In re Application of: Ray Cole

Application No.: 10/658,852

Filed: September 10, 2003

For: Method and Apparatus for Obtaining Storage Information from a Transaction Log

Petitioner, BMC Software, Inc., is the owner of 100 percent interest in the instant application. Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as shortened by any terminal disclaimer, of prior Patent No. 6,418,437. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

August 16, 2005
Date

By:
Steve Borgman
Attorney of Record, Reg. # 33,160

☒ Terminal disclaimer fee under 37 C.F.R. § 1.20(d) included.

☒ PTO suggested wording for terminal disclaimer was:

☒ unchanged. ☐ changed (if changed, an explanation should be supplied).